

Remarks

This Amendment is in response to the Decision on Appeal issued **October 17, 2007**, wherein the Board of Patent Appeals and Interferences affirmed the rejections set forth in the Final Office Action mailed November 26, 2004. In the Final Office Action, the Office rejected claims 23, 26, 29, and 30 under 35 U.S.C. § 103, alleging the same to be obvious over U.S. Patent No. 5,843,172 to Yan (hereafter “Yan”) in view of U.S. Patent No. 5,769,884 to Solovay (hereafter “Solovay”). The Office also rejected claims 23, 26, 29, 30, 32, 33, and 35 – 40 under 35 U.S.C. § 103, alleging the same to be obvious over U.S. Patent No. 5,807,404 to Richter (hereafter “Richter”) in view of Solovay and U.S. Patent No. 5,780,807 to Saunders (hereafter “Saunders”).

Claims 23 and 32 have been amended to define the invention more particularly and distinctly. Claims 24, 26 and 33, 35 have been canceled are represented as new claims 43, 45 and 47, 49. New claims 42, 44, 46, and 48 have been added. No new matter has been added.

The following comments are presented in the same order and with headings and paragraph numbers corresponding to those set forth in the Office Action.

Claim Rejections—35 U.S.C. § 103

2. The Office rejected claims 23, 26, 29, and 30 under 35 U.S.C. § 103, alleging the same to be obvious over U.S. Patent No. 5,843,172 to Yan (hereafter “Yan”) in view of U.S. Patent No. 5,769,884 to Solovay (hereafter “Solovay”). Applicant respectfully asserts that the rejection is overcome.

The purported Yan and Solovay combination fails to teach or suggest all the limitations of claim 23, as amended. Claims 23, as presented above, recites “wherein the at least two regions have porosities between 20% and 80% of the volume of the sintered metal ...” Support for the amendment may be found in the instant specification, as follows: “The percentage porosity is a measure of the void space within the metal,” (page 5, lines 1 – 2), and “[t]he porosity may be between twenty and eighty percent of the total volume and more suitably between forty and sixty percent of the volume.” (Page 5, lines 17 – 18). Because neither Yan nor Solovay teach or suggest a porosity “between twenty and eighty percent” of the volume of

the sintered metal, as in claim 23, the proposed Yan and Solovay combination fails to teach or suggest all the elements of claim 23. As such, claim 23 is non-obvious over Yan in view of Solovay.

Claim 26 has been canceled and re-presented as new claim 45. Claims 29, 30, and 45, which depend from claim 23, incorporate all of the subject matter of claim 23, and add additional subject matter. Because dependent claims 29, 30, and 45 also include the limitation “wherein the at least two regions have porosities between 20% and 80% of the volume of the sintered metal,” the proposed Yan and Solovay combination fails to teach or suggest all of their limitations. As such, claims 29, 30, and 45 are also non-obvious over Yan in view of Solovay. Applicant respectfully requests that the rejections be removed and claims 23, 29, 30, and 45 be allowed.

3. The Office also rejected claims 23, 26, 29, 30, 32, 33, and 35 – 40 under 35 U.S.C. § 103, alleging the same to be obvious Richter in view of Solovay and Saunders. Applicant respectfully asserts that the rejection is overcome.

The purported Richter, Solovay, and Saunders combination fails to teach or suggest all the limitations of claim 23, as amended. Because neither Richter, Solovay, nor Saunders teach or suggest a porosity “between twenty and eighty percent” of the volume of the sintered metal, the proposed Richter, Solovay, and Saunders combination fails to teach or suggest all the elements of claim 23. As such, claim 23 is non-obvious over Richter in view of Solovay and Saunders.

Claim 26 has been canceled and re-presented as new claim 45. Claims 29, 30, and 45 which depend from claim 23, incorporate all of the subject matter of claim 23, and add additional subject matter. Because dependent claims 29, 30, and 45 include the limitation “wherein the at least two regions have porosities between 20% and 80% of the volume of the sintered metal,” the proposed Richter, Solovay, and Saunders combination fails to teach or suggest all of their limitations. As such, claims 29, 30, and 45 are also non-obvious over Richter in view of Solovay and Saunders. Applicant respectfully requests that the rejections be removed and claims 23, 29, 30, and 45 be allowed.

Regarding claim 32, it has been amended to include the limitation “wherein the at

least two regions have porosities between 20% and 80% of the volume of the sintered metal ...”

The purported Richter, Solovay, and Saunders combination fails to teach or suggest all the limitations of claim 32, as amended. Because neither Richter, Solovay, nor Saunders teach or suggest a porosity “between twenty and eighty percent” of the volume of the sintered metal, the proposed Richter, Solovay, and Saunders combination fails to teach or suggest all the elements of claim 32. As such, claim 32 is non-obvious over Richter in view of Solovay and Saunders.

Claim 33 has been canceled and re-presented as new claim 47. Claims 35 – 40 and 47 which depend from claim 32, incorporate all of the subject matter of claim 32, and add additional subject matter. Because dependent claims 35 – 40 and 47 also include the limitation “wherein the at least two regions have porosities between 20% and 80% of the volume of the sintered metal,” the proposed Richter, Solovay, and Saunders combination fails to teach or suggest all of their limitations. As such, claims 35 – 40 and 47 are also non-obvious over Richter in view of Solovay and Saunders. Applicant respectfully requests that the rejections be removed and claims 35 – 40 and 47 be allowed.

Conclusion

For at least the reasons presented above, Applicant submits that the present application is in condition for allowance. A notice of allowance is solicited earnestly.

Should the Examiner have any questions regarding the Amendment, the Examiner is invited to contact the Applicant's undersigned representative at the number listed below.

Respectfully submitted,

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